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DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... CALIFORNIA

Public Health Service
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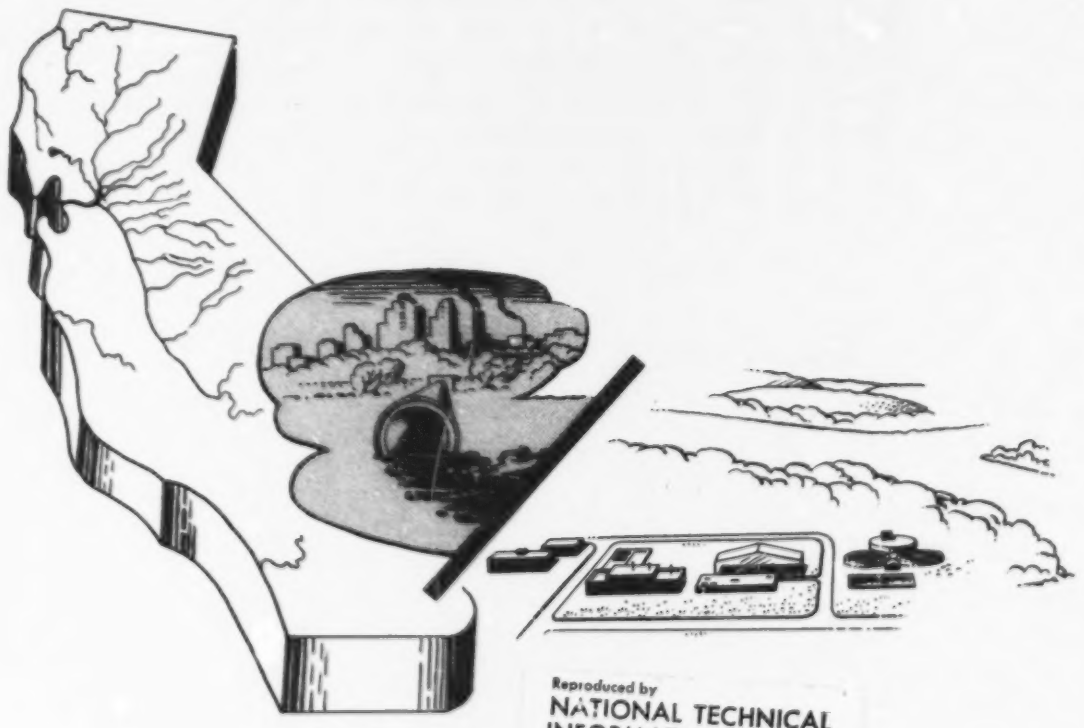

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

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Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF CALIFORNIA WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

Both the California State and Regional Water Pollution Control Boards and the California Department of Public Health have important functions relating to the control and prevention of water pollution in the State. The Water Pollution Control Boards are authorized to control "pollution" and "nuisance" of the waters of the State while the Department of Public Health has the authority to control "contamination" of the waters of the State. Pollution is defined as "an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic, industrial, agricultural, navigational, recreational or other beneficial use." Nuisance means "damage to any community by odors or unsightliness resulting from unreasonable practices in the disposal of sewage or industrial wastes." Contamination means "an impairment of the quality of the waters of the State by sewage or industrial waste to a degree which creates an actual hazard to the public health through poisoning or through the spread of disease," and contamination includes "any equivalent effect resulting from the disposal of sewage or industrial waste, whether or not waters of the State are affected" (Deering's California Codes, Water Code, 1954 ed., sec. 13005; Health and Safety Code, sec. 5410 (e), (f), 1952 ed.)[1/]. In 1950, the California Legislature passed a resolution (Assembly Joint Resolution No. 4)

1/ Unless otherwise indicated, citations in this digest refer to Deering's California Codes, 1952 ed., and 1955 Supplement thereto.

stating that it is the intent of the Legislature that the State Water Pollution Control Board be the State Water Pollution Agency within the meaning of the Federal Water Pollution Control Act (Statutes and Amendments to the Codes, 1950, 1st Ex. Sess., Ch. 7).

The problems of water pollution in California are declared to be primarily regional and dependent upon factors of precipitation, topography, population, and recreational, agricultural, and industrial development which vary greatly from region to region (Water Code, 1954 ed., sec. 13000). For the purpose of controlling water pollution on a regional basis, the State is divided into nine regions each of which has a Regional Water Pollution Control Board (Water Code, 1954 ed., 13040). The Regional Boards are primarily responsible for the actual operation of the water pollution control program and the State Water Pollution Control Board performs these functions only when a Regional Board fails to take or obtain appropriate action to correct an existing or threatened condition of pollution or nuisance (Water Code, 1954 ed., secs. 13053, 13055; 1955 Supp., sec. 13025). The State Board formulates statewide policy for control of water pollution (Water Code, 1954 ed., sec. 13022).

The State Department of Water Resources, established in 1956, exercises all the powers, duties, and responsibilities in matters pertaining to water or dams (except those relating to the issuance, denial, or revocation of permits or licenses for the appropriation of water) which were formerly vested in the Department and Director of Public Works, the Division of Water Resources of the Department of Public Works, the State Engineer, the Water Project Authority of the State of California, or any

officer or employee thereof and to some of the functions of the former State Water Resources Board. The State Reclamation Board is continued within the Department of Water Resources (1st Ex. Sess., 1956, Ch. 52, sec. 6, to be added to the Water Code as secs. 150, 153, 154).

The Supervisor of the Division of Oil and Gas in the Department of Natural Resources is responsible for preventing, as far as possible, damage to underground and surface waters suitable for irrigation or domestic purposes as a result of drilling or operating oil or gas wells (Public Resources Code, 1954 ed., secs. 3106, 3107). The owner or operator of any well on lands producing or reasonably presumed to contain oil or gas is required to use every effort to shut out detrimental substances from strata containing water suitable for irrigation or domestic purposes and from surface water suitable for such purposes, and to prevent the infiltration of detrimental substances into such strata and into such surface water (Public Resources Code, 1954 ed., sec. 3220). When it appears that detrimental substances are infiltrating into underground or surface water suitable for irrigation or domestic purposes, the State Oil and Gas Supervisor may order a shut-off test and designate a day upon which the test is to be held (Public Resources Code, 1954 ed., sec. 3221). Tests or remedial work may be ordered by the Supervisor, inter alia, to prevent the infiltration of detrimental substances into underground or surface water suitable for irrigation or domestic purposes, to the best interests of the neighboring property owners and the public (Public Resources Code, 1954 ed., sec. 3224). Before abandoning any well, the

owner or operator must, as directed by the Oil and Gas Supervisor, protect any underground or surface water suitable for irrigation or domestic purposes from infiltration or addition of any detrimental substances (Public Resources Code, 1954 ed., sec. 3228).

The State Lands Commission is required, in leasing State property for oil and gas drilling purposes on tide and submerged lands, to insert in the lease, provisions against the pollution and contamination of the ocean and tidelands and all impairment of and interference with bathing, fishing, or navigation in the waters of the ocean or any bay or inlet thereof, and further to provide that no oil tar, residuary product of oil, or any refuse of any kind from any well or works are to be permitted to be deposited on or pass into the waters of the ocean or any bay or inlet thereof (Public Resources Code, 1954 ed., 1955 Supp., sec., 6873).

When the Fish and Game Commission determines that a continuing and chronic condition of pollution exists, it is required to report such condition to the appropriate Regional Water Pollution Control Board, and must cooperate with and act through such board in obtaining correction in accordance with any laws administered by the board for control of practices for sewage and industrial waste disposal (Statutes and Amendments to the Codes, 1949, Chap. 1553, to be added to Fish and Game Code as sec. 481.5).

The placing of explosives in the waters of the State for the purpose of taking fish is prohibited and it is unlawful to deposit or permit to enter into waters of the State any substance or material

deleterious to fish, plant, or birdlife (Fish and Game Code, 1944 ed., secs. 480, 481).

The California State Constitution provides that because of the conditions prevailing in the State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such water is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare; that the right to water or to the use or flow of water in or from any natural stream or water course in the State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water (Calif. State Constitution, Art. XIV, sec. 3). 2/

Miscellaneous provisions of California statutes relating to water pollution are summarized in the last section of the Digest.

2/ In 1953, the California Legislature by Assembly Concurrent Resolution No. 108 created a Joint Legislative Committee on Marine Affairs and Bay Area Development and directed it to ascertain, study, and analyze all facts relating to or in any manner affecting the marine affairs and bays and harbors of the State, including, but not restricted to, the establishment of a waterways system on the inland waters of the State tributary to the Pacific Ocean, the establishment of harbors of refuge along the California coast for the safety and use of fishing boats and other small craft, and the pollution of the bays and harbors of the State. The committee was authorized to confer with competent professional technicians on the engineering and economic factors involved in (among other things) the

prevention of water pollution; to make recommendations for appropriate legislation; and to file its final report with the Legislature not later than the last day of the 1955 legislative session (Statutes and Amendments to the Code, 1953, Vol. 2, Chap. 237).

The 1953 California Legislature by Senate Concurrent Resolution No. 13 also created a Joint Committee on Water Problems to ascertain, study, and analyze all facts relating to or in any way bearing upon all phases of flood contro , river flow control and equation, domestic use, irrigation, reclamation, and power development of water, including their relation to the economic, recreational and other needs of the people of the State and to the wildlife and other natural resources of the State; the best means of cooperation with Federal, local, and other governmental agencies; the feasibility of the transfer of the Central Valley Project to the State for ownership and operation, and the means for securing an additional fresh water supply for the San Francisco Bay area and coastal counties, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in any way bearing upon or relating to the subject of the resolution, and to report thereon to the Legislature, including in the reports its recommendations for appropriate legislation. The Resolution required that the committee file its final report not later than the final legislative day of the 1955 regular session (Statutes and Amendments to the Codes, 1953, Vol. 2, Chap. 239).

II. ADMINISTRATIVE ORGANIZATION

A. State Water Pollution Control Board

1. Composition

The State Water Pollution Control Board is composed of the following 14 members: The Director of Public Health, the State Engineer3/, the Director of Natural Resources, the Director of Agriculture, the Director of Fish and Game, or their nominees, and 9 members to be appointed by the Governor, at least one to be selected from qualified persons engaged in the following fields: the production and supply of domestic water, irrigated agriculture, industrial water use, production of

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3/ The Department of Water Resources Act of 1956 abolished the office of State Engineer (1st Ex. Sess. 1956 Chap. 52, sec. 6 to be added to Water Code as sec. 154). The Director of the Department of Water Resources supplants the State Engineer as a member of various Boards and Commissions.

industrial waste, public sewage disposal, city government and county government (Water Code, 1954 ed., sec. 13011). The Chairman of the State Board is elected annually by the Board (Water Code, 1954 ed., sec. 13013). The State Board is authorized to appoint an executive officer who is a registered engineer with at least five years engineering experience relating to water pollution and waste disposal (Water Code, 1954 ed., sec. 13020). There is no provision for any advisory council.

The State Board is required to hold at least two regular meetings annually and such special meetings as shall be called by the secretary upon the request of the chairman or two members of the State Board (Water Code, 1954 ed., sec. 13021).

2. Powers and duties

a) Development of comprehensive program

The State Board is authorized to formulate a state-wide policy for control of water pollution with due regard for the authority of the Regional Boards. It also administers any State-wide program of financial assistance for water pollution control which may be delegated to it by law and may accept funds from the United States or from any other person (Water Code, 1954 ed., secs. 13022, 13023).

b) Enforcement

When a Regional Board fails to take or obtain appropriate action to correct any particular existing or threatened condition of pollution or nuisance, the State Board may direct that action to correct the condition be taken by any State agency having jurisdiction or it may itself

take such action. In taking such action the State Board is vested with the powers granted to the Regional Boards. When the State Board finds that contamination exists and is not being corrected, it directs that action be taken by any State agency having jurisdiction thereof (Water Code, 1955 Supp., sec. 13025).

c) Conduct of studies, investigations and research

The State Board administers any State-wide program of research in the technical phases of water pollution control which may be delegated to it by law and may accept funds from the United States or from any other person. The State Board may conduct such a program independently, or by contract or in cooperation with any Federal or State agencies, including any political subdivisions of the State or any person or public or private organization (Water Code, 1954 ed., sec. 13024).

d) Cooperation with other public and private agencies

The State Water Pollution Control Board is directed to consult with the State Board of Public Health prior to determining whether sewerage facilities proposed by an applicant for a loan from the State Water Pollution Control Fund are necessary to the health and welfare of the inhabitants of the State, and that the proposed facilities are adequate (Water Code, 1954 ed., secs. 13101, 13103).

The State Water Pollution Control Board and each Regional Water Pollution Control Board is to cooperate with the Department of Water Resources in all matters of mutual concern to the fullest extent practicable (1st Ex. Sess. 1956, Chap. 52, sec. 15, to be added to Water Code as sec. 13003).

e) Administrative powers

The State Board may adopt reasonable rules and regulations for the conduct of its affairs; allocate funds to the Regional Boards for administrative expenses; require any State or local agency to inspect and report on any technical factors involved in water pollution; assist, at the request of a Regional Board, the citizens of any area in the formation of a district authorized to provide facilities necessary to correct any condition of contamination, pollution, or nuisance (Water Code, 1954 ed., sec. 13020).

B. Regional Water Pollution Control Boards

1. Composition

Each Regional Board is composed of 5 members appointed by the Governor. One member of each Regional Board is to be drawn from each of the following categories:

(1) Organizations dealing with water supply, conservation of production;
(2) Owner or manager of a farm in the region associated with irrigated agriculture;
(3) Executive or administrator of industries producing industrial waste in the region;
(4) Municipalities in the region;
(5) Counties in the region (Water Code, 1954 ed., sec. 13041).

The Regional Boards must hold at least one regular meeting each calendar quarter and such special sessions as are called by the Chairman or by any two members (Water Code, 1954 ed. sec. 13043). Each Regional Board selects its own Chairman and appoints an executive officer (Water Code, 1954 ed., sec. 13050).

2. Powers and duties

a) Development of comprehensive program

Each Regional Board is authorized to:

(i) Obtain coordinated action in the abatement, prevention and control of water pollution and nuisance by means of formal or informal meetings of the persons involved;

(ii) Encourage and assist in self-policing waste disposal programs for industry, and upon application of any person, advise the applicant of the condition to be maintained in any disposal area or receiving waters into which the waste is being discharged;

(iii) Require any State or local agency to inspect and report on any technical factors involved in water pollution or nuisance;

(iv) Request enforcement of laws concerning water pollution or nuisance by appropriate Federal, State and local agencies;

(v) Formulate and adopt long-range plans and policies with respect to water pollution control within the region;

(vi) Recommend to the State Board projects for the reduction of water pollution which the Regional Board considers eligible for any financial assistance which may be available through the State Board;

(vii) Report to the State Board and to the appropriate local health officer any case of contamination in its region which is not being corrected;

(viii) File with the State Board, at its request, copies of any official action with respect to any particular case of factual or threatened pollution;

(ix) Require any state or local agency to obtain and submit analyses of well water (Water Code, 1954 ed., sec. 13052).

Each Regional Board must prescribe requirements relative to any particular condition of pollution or nuisance existing or threatened in its region (Water Code, 1954 ed., sec. 13053).

b) Issuance of requirements for the disposal of sewage and industrial wastes

Persons proposing to discharge sewage or industrial waste within any region, other than into a community sewer system, must file with the Regional Board a report of the proposed discharge. The Regional Board, after any necessary hearing, prescribes requirements as to the nature of such discharge with relation to the conditions existing from time to time in the disposal area or receiving waters upon or into which the discharge is proposed and notifies the person of its action. After such notification the person notified must provide adequate facilities to meet any such requirements with respect to the discharge of sewage and industrial waste (Water Code, 1954 ed., sec. 13054). The Regional Boards do not issue permits or review plans and specifications for sewers and treatment works.

c) Enforcement

If a Regional Board finds after hearing that pollution or nuisance exists or is threatening as the result of the discharge of sewage or industrial wastes contrary to requirements prescribed by it, it orders

the condition to be corrected. Upon the failure of the party to comply with the order of the Board, the Board certifies the facts to the district attorney for the county in which the discharge originates and the district attorney petitions the superior court for an injunction. Upon the failure of the district attorney to act with due diligence, the matter is referred to the Attorney General for prosecution (Water Code, 1954 ed., secs. 13062, 13063). Orders issued by the Regional Boards may not specify the design, location, type of construction, or particular manner in which a condition of pollution or nuisance is to be corrected, and the person so ordered may correct the condition in any lawful manner (Water Code, 1954 ed., sec. 13064).

d) Conduct of studies, investigations and research

Each Regional Board may investigate any source of water pollution or nuisance within the region, and any person responsible for meeting prescribed requirements must furnish technical reports as the Board may specify (Water Code, 1954 ed., sec. 13055).

e) Administrative powers

Regional Boards may hold hearings when it appears that the discharge of sewage or industrial waste within its region is taking place contrary to its prescribed requirements. Notice of such hearing must be given by registered mail not less than 10 days in advance of the hearing date to all persons alleged to be creating the condition (Water Code, 1954 ed., sec. 13060). Hearings are held in accordance with the provisions of the California Code governing administrative adjudications (Water Code, 1954 ed., sec. 13061). The Regional Board

in conducting such hearings has all the powers granted a State agency therein. A State agency may conduct a hearing with a hearing officer presiding, or it may delegate to the hearing officer the conduct of the hearing. Notice of the hearing must be given the interested parties; hearing officers have the power of subpoena; evidence at the hearing is taken under oath; witnesses are entitled to witness fees and mileage; depositions and affidavits are admissible. If any person fails to respond to a subpoena, refuses to take the oath as a witness, or refuses to be examined at a hearing, the matter may be referred to the Superior Court for a contempt citation. Judicial review of orders and final decisions of a State Agency may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. Unless otherwise provided such petition must be filed within 30 days after the last day on which reconsideration of the final decision might be ordered. A complete record of the proceedings must be prepared by the agency within 30 days after request therefor (Government Code, secs. 11500, 11502-11516, 11518-11520, 11522, 11525-11528; 1955 Supp., secs. 11501, 11517, 11521, 11523, 11524).

3. Exemption from operation of Act

The enforcement provisions of the Act apply to "persons" (Water Code, secs. 13060-13064) which include any "city, county, or district" (Water Code, sec. 13005) but not the State or the United States. No provision of the Act affects the right of anyone to use water for any beneficial use other than the use for disposal of sewage and industrial wastes (Water Code, 1954 ed., sec. 13002).

4. Preservation of existing rights and remedies

No provision of the Act or of any ruling of the State Water Pollution Control Board or Regional Water Pollution Control Board is a limitation on:

a) The power of a city or county to adopt and enforce additional regulations not in conflict therewith imposing further conditions, restrictions, or limitations with respect to the disposal of sewage or industrial waste or any other activity which might result in the pollution of water;

b) The power of any city or county to declare, prohibit, and abate nuisances;

c) The power of a State agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer; or

d) The right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any contamination or pollution (Water Code, 1954 ed., sec. 13001).

5. Statement of policy; Severability clause

It is necessary to the health, safety, and welfare of the people of the State to provide means for coordinating the actions of the various State agencies and political subdivisions of the State in the control of water pollution (Water Code, 1954 ed., sec. 13000). No severability clause is contained in the Act.

6. Interstate agencies

The California Klamath River Commission was created in 1953 to cooperate with a similar commission representing the State of Oregon in formulating and submitting to the legislatures of both States for their approval an interstate compact regarding the distribution and use of the waters of the Klamath River. No compact or agreement entered into is binding on California until it has been approved by the State Legislature and the Congress of the United States. The State Engineer (now the Department of Water Resources) is required to cooperate with the commission and furnish it with such engineering data as it may require (Government Code, 1951 ed., 1955 Supp., secs. 8110-8119).

The California-Nevada Interstate Compact Commission was created in 1955 to cooperate with a similar commission representing the State of Nevada in formulating and submitting to the legislatures of both States for their approval an interstate compact relative to the distribution and use of the waters of Lake Tahoe, and the Truckee, Carson, and Walker Rivers. The Commission is authorized to cooperate with any person appointed by the President of the United States to participate in the negotiations as a representative of the United States and to make a report thereon to the Congress. No compact or agreement entered into is binding on California until it has been approved by the State Legislature and the Congress of the United States. The State Engineer (now the Department of Water Resources) is required to cooperate with the Commission and to furnish it with engineering and other data required by

it (Government Code, 1951 ed., 1955 Supp., secs. 8130-8139).

III. STATE DEPARTMENT OF PUBLIC HEALTH

1. Compositon of Department and State Board, Duties of Board of Health

The State Department of Public Health is composed of the State Board of Public Health, the State Director of Public Health, and such divisions as are necessary to perform the functions of the Department.

The State Board of Public Health consists of the Director of Public Health and 9 other members. The members of the Board as well as the Director are appointed by the Governor. Six members of the Board must be licensed and practicing physicians of the State and one member, a licensed and practicing dentist of the State. The Director must have a medical degree and have training and practical experience in public health administration. The Board formulates general policies affecting the public health, adopts rules and regulations for the protection of the public health, and issues licenses and permits as prescribed by law and by its rules and regulations. The Director is the executive officer of the Department and administers the laws and regulations of the Board pertaining to the protection of public health (Health and Safety Code, secs. 106, 107, 107.5; 1955 Supp., secs. 102, 104). There is no advisory council on water or contamination problems.

2. Powers and duties of Department of Health

a) Standards of Water Purity

The State Department of Public Health and local health officers are responsible for supervising the suppliers of water and ice used for

domestic purposes (Health and Safety Code, secs. 4010-4035; 1955 Supp., secs. 4000-4009.5). The Department of Health and local health officers are required to order the abatement of contamination of the waters of the State, i. e. of impairment of the quality of waters which creates a hazard to public health or any equivalent effect resulting from the disposal of sewage or industrial waste whether or not the waters of the State are affected (Health and Safety Code, sec. 5412). The State Department of Public Health or any local health officer is required to examine and may prevent the pollution of sources of public domestic water and ice supply and may maintain all proper and necessary actions and proceedings to enjoin and abate nuisances dangerous to health (Health and Safety Code, secs. 203, 205 (b)).

b) Issuance of permits and review of plans and specifications

The State Board of Public Health issues permits for water supplies used for domestic purposes. No supplier of water for domestic purposes may modify, add to, or change the source of supply or the method of treatment of water or the system for the distribution of water for domestic purposes, unless such alteration or modification or addition conforms with the requirements of the waterworks standards, without first securing a permit to do so from the Board. Plans and specification must be filed by a petitioner seeking a permit (Health and Safety Code, secs. 4011.5, 4011.6, 4012, 4021). The Board may order repairs, alterations, or additions to existing plants, works, or systems to insure that

the water being supplied shall at all times be pure, wholesome, and potable and without danger to thelives or health of human beings, and it may also order such changes in the source of the water supply or in the installation of purification and refining works and such other measures as will insure a continuous supply of pure, wholesome, and potable water without danger to the lives or health of human beings (Health and Safety Code, secs. 4018, 4019). Permits issued by the Board may be revoked or suspended at any time if it determines that the water being supplied or furnished by the permittee is or may become impure, unwholesome, or unpotable, or endangers or will endanger the lives or health of human beings. The holder of a permit may at any time be required to furnish the Board a complete report on the condition and operation of the plant, works, system, or water supply owned or controlled by him (Health and Safety Code, secs. 4022, 4023). No permit is required of any person supplying water for domestic purposes on his own private property upon which there is no industrial camp, hotel, or temporary or permanent resort using the water (Health and Safety Code, sec. 4024).

A permit may be issued by the Board or by any local health officer for any water system supplying less than 200 service connections or for any system supplying an industrial camp, hotel, or resort (Health and Safety Code, sec. 4025).

c) Enforcement

The Board may deny a permit to supply water and order such

changes as it considers necessary to secure a continuous supply of pure, wholesome, and potable water if, after investigation, it determines that the water furnished or proposed to be furnished is impure, unwholesome, or unpotable or may constitute a menace or danger to health, or the existing pr proposed plant, works, system or water supply, or proposed modifications are unhealthful or insanitary or not suited to the production and delivery of healthful, pure, and wholesome water (Health and Safety Code, sec. 4016).

The Board and its inspectors may at any reasonable time enter any and all places, enclosure, and structures for the purpose of making investigations and examinations to determine whether any provision of the Act is being violated. It is unlawful for any person to furnish or supply water intended for human consumption or for domestic purposes which is impure, unwholesome, unpotable, polluted or dangerous to health. It is a misdemeanor, punishable by a fine or imprisonment or both to knowingly violate or knowingly fail to comply with any provisions of the Act or of any order of the Board or to abet such violation. The continued existence of any violation of the chapter relating to water and water systems or of any order issued by the Board pursuant thereto, beyond the time stipulated for compliance, is a separate offense (Health and Safety Code, secs. 4030-4033). Anything done or maintained in violation of the provisions of the chapter relating to water and water systems is a public nuisance dangerous to health, and may be enjoined or summarily abated as provided by law. Every public officer or body lawfully empowered to do so may abate the nuisance immediately (Health and Safety

Code, sec. 4034). The Board is authorized to enjoin any supplier of water used or intended to be used for human consumption or for domestic purposes if he does not have an unrevoked permit for such purpose (Health and Safety Code, sec. 4035).

The State Department of Public Health or any local health officer may order abatement of contamination; may issue a peremptory order requiring the abatement of contamination, and must immediately furnish to the proper regional board a report of information and data relating thereto. If the order is not complied with, the Director or local health officer is required to bring an action for an injunction in the Superior Court of the county in which the contamination occurs (Health and Safety Code, secs. 5412, 5460). Any action taken with respect to abatement of contamination created by the disposal of sewage or industrial waste from a community or cooperative sewerage system, is to be instituted only against the agent or the agency operating such system and the contributor or contributors to the system whose waste in and of itself creates a contamination (Health and Safety Code, sec. 5462).

d) Conduct of studies, investigations, and research

Upon the filing of a petition for a permit by a water supplier, the Board makes a thorough investigation of the proposed or existing plant, works, system, or water supply and all other circumstances and conditions deemed material (Health and Safety Code, sec. 4014).

The Board is required to make a report with such suggestions

for legislative action as it considers proper to each general session of the State Legislature (Health and Safety Code, sec. 209).

e) Cooperation with other public and private agencies

Whenever the State department finds that a pollution or nuisance does, in fact, exist, such condition must be immediately referred by the department to the proper regional board for action, together with any recommendations for correction. Upon request of a regional board the State department must inspect and report to the board on any technical factors involved in any condition of pollution or nuisance (Health and Safety Code, sec. 5413).

f) Administrative powers

The State Board of Public Health is authorized to adopt, promulgate, repeal, and amend rules and regulations for the protection of the public health; to issue licenses and permits as prescribed by law and by its rules and regulations; and it may hold hearings and subpoena witnesses and documents (Health and Safety Code, 1955 Suppl., sec. 102).

The State Board of Public Health and its inspectors are empowered to enter all public and private places at all reasonable times for the purpose of making examinations and investigations in connection with the licensing of water supply systems (Health and Safety Code, sec. 4030).

3. Exemptions from operation of Act

There are no exemptions from the Act insofar as the use of the waters relate to their contamination by sewage or industrial waste

(Health and Safety Code, secs. 5410e, 5411).

4. Preservation of existing rights and remedies

No provision of the Act is a limitation:

a) On the power of a city or county to adopt and enforce additional regulations not in conflict therewith imposing further conditions, restrictions, or limitations with respect to the disposal of sewage or industrial waste.

b) On the power of any city or county to declare, prohibit, and abate nuisances.

c) On the power of a State agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or adminster.

d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any contamination or pollution (Health and Safety Code, sec. 5415).

IV. DEPARTMENT OF WATER RESOURCES

1. Composition

The Department of Water Resources is composed of a Director of Water Resources, the State Water Board (formerly the State Water Resources Board) and the State Reclamation Board (1st Ex. Sess. 1956, Chap. 52, sec. 6, to be added to Water Code as secs. 150, 154).

2. Powers and duties

a) Conduct of studies, investigations and research

The Department is authorized either independently or in cooperation

with any person or agency to investigate conditions of the quality of all waters of the State, including saline waters, coastal and inland waters as related to all sources of pollution, to report thereon to the Legislature and to the appropriate Regional Water Pollution Control Board annually, and to recommend steps to be taken to improve or protect the quality of the waters; to conduct surveys and investigations relating to the reclamation of water from sewage or industrial wastes for beneficial purposes (Water Code, 1954 ed., secs. 229, 230). The Department has extensive advisory authority in the coordination of all water development projects, and special authority for controlling and conserving flood waters of the State (Water Code, 1954, ed., secs. 12580, 12609). The Department is directed, in studying water development projects, to give full consideration to all beneficial uses of the State's water resources, including irrigation, generation of electric energy, municipal and industrial consumption of water and power, repulsion of salt water, preservation and development of fish and wildlife resources, and recreational facilities, but not excluding other beneficial uses of water (Water Code, 1954 ed., sec. 12581).

The Department may conduct investigations, surveys and studies of the water resources of the State; formulate plans for the control, conservation, protection, and utilization of the water resources, including expedient and economically feasible solutions for the water problems of each portion of the State and recommendations for construction projects (Water Code, 1954, ed., secs. 12616-12618). The Department is authorized

to investigate all phases of any proposed water project, including flood control, water conservation, domestic and irrigation use, and power development, but not excluding other uses (Water Code, 1954 ed., sec. 12627). The Department also investigates and surveys conditions of damage to the quality of underground waters which conditions are or may be caused by improperly constructed, abandoned, or defective wells through the interconnection of strata or the introduction of surface waters into underground waters; reports to the appropriate Regional Water Pollution Control Board its recommendations for minimum standards of well construction to protect the quality of underground water and also reports to the Legislature, including recommendations for the proper sealing of abandoned wells (Water Code, 1954 ed., sec. 231).

b) Cooperation with other agencies

The Department, either independently or in cooperation with any person or any county, State, Federal or other agency may (a) conduct investigations of all or any portion of any stream, stream system, lake or other body of water; (b) investigate either or both surface and underground water conditions; (c) collect records of diversion and use of water; and (d) supervise distribution of water in accordance with agreements and court orders therefor (Water Code, 1954 ed., sec. 226). The Department either independently or in cooperation with any person, or any county, State, Federal or other agency is authorized to study and report upon problems of beach erosion and means for the stabilization of beaches and shore line areas (Water Code, 1954 ed., sec. 330).

c) Administrative powers

The Department is authorized to take all appropriate proceedings

or actions before executive, legislative, or judicial agencies to prevent waste, unreasonable use, or unreasonable method of diversion of water in the State (Water Code, 1954 ed., sec. 275). The Department may hold hearings, prepare plans and estimates of costs and benefits of all proposed water development projects, encourage the creation and development of flood control and water conservation plans and activities, cooperate with the United States or any of its departments or agencies in carrying out certain measures for control, storage, or use of waters on streams, rivers, or other waterways, and the watersheds thereof within the State (Water Code, 1954 ed., sec. 12609). The Department acts as the central information agency and represents the interests of the State with respect to any activities, requirements, or procedures of the United States, its departments or agencies affecting any proposed water project within its jurisdiction including flood control, water conservation, domestic and irrigation use, and power development, but not excluding other uses (Water Code, 1954 ed., secs. 12603, 12604). All rules and regulations of the Department, other than those of internal management, must first be presented by the Director to the State Water Board and become effective only upon approval thereof by the Board. The State Water Board is authorized to confer with, advise, and make recommendations to the Director regarding any matters under his jurisdiction. In making all major determinations, policies, and procedures, such as departmental recommendations to the Legislature, the Director and the Board are to confer (1st Ex. Sess., 1956, Ch. 52, sec. 6, to be added Water Code as sec. 154).

V. MISCELLANEOUS STATE LAWS RELATING TO WATER POLLUTION

Certain placer mining operations must be conducted in such a way as to prevent water pollution and failure to comply with these requirements constitutes a public nuisance which may be enjoined. Persons causing such pollution are guilty of a misdemeanor (Public Resources Code, 1954 ed., secs. 2555, 2557, 2558).

Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or obstructs the free passage or use of any navigable lake, stream, or any public square or street is a public nuisance. Any person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or wilfully omits to perform any legal duty relating to the removal of a public nuisance is guilty of a misdemeanor. The District Attorney or the city attorney of any city is empowered to prosecute offenders until the nuisance is abated and removed (Penal Code, 1949 ed., secs. 370, 372, 373a).

The discharge of sewage or industrial waste in any manner which results in contamination is a misdemeanor (Health and Safety Code, sec. 5461).

It is a misdemeanor for any person to place, deposit or dump any garbage in or upon the navigable waters of the State (Health and Safety Code, sec. 4401).

Putting the carcass of any dead animal, or the offal from any

slaughter pen, corral, or butcher shop into any river, creek, pond, reservoir, or stream are prohibited. The placing of any water closet, privy, cesspool, or septic tank in or upon the borders of any stream, lake, or reservoir from which water is drawn for the supply of any inhabitants of the State in such a manner that their drainage may be taken up by or in the water is prohibited (Health and Safety Code, sec. 4450, 4451, 4452).

The keeping of any animals on the borders of any waters in such a manner that the waters become polluted, and the polluting by animals of the waters of the State which are intended for drinking purposes is prohibited (Health and Safety Code, secs. 4453, 4454).

Bathing in and washing clothes in any waters of the State which are used or intended for drinking purposes by the inhabitants of any political subdivision of the State are prohibited (Health and Safety Code, secs. 4455, 4456).

The construction, maintenance, or use of any sewer well extending to or into a subterranean water-bearing stratum that is used or intended to be used or is suitable for a source of water supply for domestic purposes are prohibited (Health and Safety Code, sec. 4458).

The discharge of oil into the navigable waters of the State from any vessel is a misdemeanor (Harbors and Navigation Code, 1954 ed., sec. 133).

The throwing or depositing of sawdust, slabs, or refuse lumber into the waters of the Humboldt Bay is a misdemeanor (Harbors and Navigation Code, 1954 ed., sec. 134).

The mooring of a houseboat or boat used as a residence on any waters 2 miles above the intake or place where any city, town, or village takes its water from a river or stream for drinking or domestic purposes is unlawful except for temporary mooring (Health and Safety Code, sec. 4459).

Making ice or cutting ice from impure or polluted waters is prohibited as is selling or offering such ice for sale. The manufacturer of ice is required to obtain a bacterial analysis of water used in making ice, unless the water used is from an approved municipal supply; and the analysis must be submitted to the State or local department of public health (Health and Safety Code, 1955 Supp., secs. 4000, 4001).

Every person who digs, bores or drills a water well, or who deepens or reperforates any such well, must file with the appropriate Regional Water Pollution Control Board a report of completion of such well within 30 days after its construction or repair has been completed. The report must be made on forms furnished by the Department of Water Resources and must contain such information as the Department may require, indluding, but not limited to: (a) description of exact location of the well; (b) detailed log of the well; (c) description of type of construction; (d) details of perforation; and (e) methods used for sealing-off surface or contaminated waters (Water Code, 1954 ed., sec. 7076)